

Notice of Allowability

Application No.

09/963,737

Applicant(s)

LEVY-ABEGNOLI ET AL.

Examiner

Kelvin Lin

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to decision of the BPAI mailed 3/9/07.
2. ☒ The allowed claim(s) is/are 21-32.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☒ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. .
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

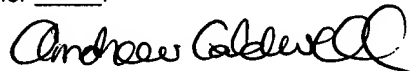
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER

Reasons for Allowance

Claims 1-20 are cancelled.

Claims 21-32 are allowed based on the BPAI decision.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the European Patent Office on September 28, 2000. It is noted, however, that applicant has not filed a certified copy of the EPO application as required by 35 U.S.C. 119(b). Although previous communications may have indicated that the application was received, the Applicants should have known these indications were in error. For example, the final Office action mailed on March 10, 2005 indicated that the certified copies were received in application 00480087.6. This is clearly wrong, since the application number identified is the foreign patent from which priority is claimed. Whatever papers may have been filed in that EPO application, the certified copy of the EPO application must be filed with the USPTO in order for the applicants to perfect their priority claim.

The examiner notes that the transmittal form filed on September 26, 2001 indicates that the applicants may have filed a certified copy of the EPO application on that date. Despite this fact, no such copy is of record in the file. The applicants may wish to review, among other things, the procedures for missing correspondence in MPEP 513.

Oath/Declaration

This application presents a claim for subject matter not originally claimed or embraced in the statement of the invention. The need for a supplemental oath/declaration in this application should be readily apparent from a review of the claims as originally filed in this application (see claims 1-20 filed September 26, 2001) and the allowed claims (see claims 21-32 filed May 10, 2005) are of significantly different scope. A supplemental oath or declaration is required under 37 CFR 1.67. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin Lin whose telephone number is 571-272-3898. The examiner can normally be reached on Flexible 4/9/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or processing is assigned is 571-273-8300.

Art Unit: 2142

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KYL
5/2/07

A handwritten signature in black ink, appearing to read "Andrew Caldwell", with a stylized flourish at the end.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER